sold by Bell Atlantic to Payphone Service Providers. Bell Atlantic employed essentially the same premise as People's Counsel, but reached a different conclusion, based on the following syllogism: because usage underlies all telephone service, it is not payphone-specific; because usage is not payphone-specific, Federal law does not require it to be tariffed at the Federal level; because usage is not tariffed at the Federal level, the New Services Test does not apply to it. Throughout its argument, Bell Atlantic appeared to treat Federal tariffing of a service offering as a prerequisite for applying the New Services Test to that offering. Bell Atlantic made a similar argument in a recent case before the Pennsylvania Public Utility Commission in which the applicability of the New Services Test to local usage was at issue. In *Central Atlantic Payphone Association vs. Bell Atlantic-Pennsylvania, Inc.*, Pennsylvania P.U.C. (1998),[15] the trier of fact determined that tariffing at the Federal level had "no relevance" to the question of applying the New Services standards to a particular service. Specifically, the trier of fact in *Central Atlantic Payphone* concluded, based on an extensive examination of FCC statements, that tariffing of a service at the Federal level "has nothing to do with the issue presented here, namely, whether the rate charged for local usage must meet the Federal New Services Test." *Id.* at 7.

A conclusion similar to that reached in Pennsylvania is appropriate in this case. There is nothing in the record requiring offerings subject to the New Services Test to be limited to those issues tariffed at the Federal level. Federal rulings point to New

[15] Pa. P.U.C. Docket No. R-00973867C0001.

Services Test applicability, as shown by the following text and footnote in the FCC's *First* [Common Carrier Bureau] *CCB Order*:

> Tariffs for payphone services, including unbundled features and functions filed with the states, pursuant to the *Payphone Reclassification Proceeding*, must be cost-based, consistent with Section 276, nondiscriminatory, and consistent with *Computer III* tariffing guidelines.[5]
>
> [5] *Id.* at para. 163. As stated in the *Order on Reconsideration*, the intrastate tariffs are subject to the new services test.
>
> *Order on Reconsideration* at *Id.*, n. 492. Emphasis added.

It is obvious, then, that services listed on intrastate, as well as on Federal, or interstate, tariffs may be subject to the New Services Test. It is equally clear that Bell Atlantic's argument that the NST can apply only to services which are Federally tariffed is erroneous.

Bell Atlantic also argued against applying the NST to local payphone usage rates because the Company offers usage to payphones under a bundled retail business tariff rather than an unbundled payphone tariff. This argument is simply another version of the Company's position that services must be payphone-specific in order to be subject to the NST. If businesses may buy the same or essentially the same services as PSPs, Bell Atlantic would contend, these services are clearly not payphone specific. As already discussed, however, Bell Atlantic's argument is a weak one in a competitive environment. Federal law and regulation require that Bell Atlantic payphones and COCOTs be on an equal competitive footing. The New Services Test is a mechanism to further the achievement of such a goal. Conforming payphone usage tariffs to the requirement of the New Services Test may result in payphone usage charges being lower than charges for resellers or for regular business usage, a possibility to which BA-MD strongly objected. This result however, is neither certain nor likely.[16] Even if it were, it does not permit us to ignore the competitive requirements of Section 276 and the various FCC orders. It is also a result not inconsistent with the soon-to-be fully competitive payphone environment, in which BA-MD's payphones will compete on a level with those of other Payphone Service Providers. Failure to insure that usage service is provided at unsubsidized rates would, however, be inconsistent with the new state of the payphone industry.[17] Therefore, this Proposed Order requires Bell Atlantic to price local payphone usage according to the requirements of the New Services Test. If necessary to accomplish this goal, BA-MD will unbundle usage and provide it to PSPs apart from ordinary business usage.

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[16] In its Order No. 73010, issued November 8, 1996, in Case No. 8731, p. 28, the Commission applied a wholesale discount rate of 19.87 percent for resellers of service who provide their own operator and directory services. This provision would insure that most resellers could purchase service at a rate lower than PSPs. These savings may be passed on to business users. Even if some business users end up paying more for certain services than PSPs, that result is supportable. PSPs, in providing local phone service in many low-income areas, provide a different service than most businesses.

[17] Bell Atlantic urges that "the FCC has clearly ruled that the services that ... LECs offer ... need not be made available at wholesale rates to independent PSPs." Bell Atlantic concludes on the strength of the FCC ruling that permitting PSPs to purchase usage at "wholesale" business rates is not permissible. PTC responds that it is in fact not seeking wholesale rates, but rather rates consistent with the New Services Test.

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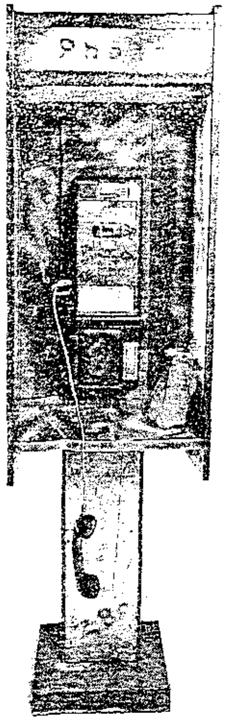

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STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 99-C-____-	Petition of the Independent Payphone Association of New York, Inc. to Modify New York Telephone Wholesale Payphone Service Rates and Award Refunds

STATE OF FLORIDA)
)
COUNTY OF SARASOTA)

Louis A. Ceddia, being duly sworn, deposes and says:

INTRODUCTION

1. I am the principal member of LMC Associates LLC, a firm that provides regulatory policy and planning services to telecommunications providers. My business address is 8200 Deerbrook Circle, Sarasota, Florida. Prior to the establishment of LMC Associates, I was employed by the New York State Department of Public Service. During my twenty-five years there, I held various positions in the areas of telecommunications policy, planning, service and rates. A number of those positions were at the policy making level. During my tenure in planning and rates, I was on numerous occasions the expert staff witness in rate proceedings on the cost of service and rates associated with telecommunications services provided to business customers. In that capacity, I critiqued company cost studies, prepared cost studies of my own, designed rates based on those costs and offered sworn testimony on all those matters. Recently,

I have been retained by the Independent Payphone Association of New York, Inc. (IPANY), to review and comment upon the tariff revisions filed by New York Telephone (NYT) in Case 96-C-1174.

BACKGROUND

2. On December 31, 1996, the Commission instituted Case 96-C-1174 to address and implement the requirements of the new Federal payphone regulations and to assess fully the ramifications of those rules.[1] The Commission also required local exchange companies (LECs) to file tariff revisions consistent with the new federal regulations to become effective by April 15, 1997.[2] On December 31, 1996, NYT filed tariff revisions to become effective on April 1, 1997, and on March 31, 1997, the Commission approved the tariff revisions on a temporary basis because the tariff structure and rate levels had not been tested in the coin telephone marketplace.[3] On July 30, 1997, the Commission requested comments from interested parties on the tariff revisions, to be submitted by

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[1] Order Instituting Proceeding, Case 96-C-1174, Issued and Effective December 31, 1996, at Pages 3 and 4.

[2] Id., at Ordering Clause 4.

[3] Order Approving Tariff On A Temporary Basis, Issued and Effective March 31, 1997, at Pages 3 and 4.

September 15, 1997.[4] Comments were submitted by IPANY, and by AT&T Communications of New York, Inc. (AT&T).[5]

NEW YORK TELEPHONE'S TARIFF FILING

3. On December 31, 1996, NYT filed revisions to its Public Telephone Services tariff. The purpose of this filing was to comply with the payphone reclassification provisions of The Telecommunications Act of 1996, the Commission's Order instituting Case 96-C-1174, and the FCC's Report and Order in Docket 96-128. The tariff revisions contained rates for four types of coin telephone lines and their features[6] which, prior to the tariff filing, were available only to NYT's own payphone operations.[7] However,

[4] Notice Requesting Comments Addressing Aspects Of The Federal Payphone Regulations, The Need For Changes To The Commission's COCOT Regulations And Certain LEC Payphone Tariffs, Issued July 30, 1997. The due date for comments was subsequently extended to September 30, 1997.

[5] AT&T's comments are consistent with IPANY's regarding weaknesses in New York Telephone's tariff supporting cost studies. Although AT&T argues that costs may be understated and IPANY claims that costs are overstated, these positions are not mutually exclusive. AT&T's concerns center on the costs associated with payphone sets that, prior to deregulation, were recovered through access rates. IPANY's cost concerns, on the other hand, involve bottleneck facilities that remain regulated.

[6] The four types of coin telephone lines NYT will provide in the new category of Public Access Smart Pay Lines are one-way and two-way Basic Coin Access Lines (BCAL1 and BCAL2), INMATE and CHARGE-A-CALL.

[7] The Telecommunications Act did not require that the retail payphone services provided by NYT be provided through a Section 272 structurally separate subsidiary, similar to

the tariff's existing terms and rates for the bottleneck payphone lines and features used by IPANY members were not changed. The tariff revisions also removed from rates and charges payphone sets and set related equipment. With the above revisions, NYT claimed that its Public Telephone Services tariff met the requirements of The Telecommunications Act.[8]

PURPOSE OF STATEMENT

4. The purpose of this statement is to offer a response to the Commission's expressed interest in the impact of the NYT tariff revisions on the coin telephone marketplace. I will describe my review and analysis of the tariff revisions and comment on the impact the revisions have had in the New York payphone market. In doing so, I will offer my assessments of the tariff's conformance to the non-discrimination provisions in Section 276 of The Telecommunications Act, and the tariff's compliance with the

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the retail services covered by Section 271, and 273 to 275 of the Act. NYT instead chose to provide retail payphone services through a separate operating division, known as PUBCOM. While this operating division is IPANY's competitor in the marketplace, it is the costs and rates of NYT's bottleneck payphone services, which continue to be provided to IPANY and to NYT's PUBCOM by the regulated core company, which are at issue here.

[8] See 47 U.S.C. §276. These provisions are described in Report and Order, FCC 96-388, CC Docket No. 96-128, Released and Adopted September 20, 1996, at ¶192-208.

cost-based pricing requirements of the Federal Communications Commission (FCC). In addition, I will present an alternative view of payphone service costs and rate structure and describe how the existing NYT rates for the access lines used by Independent Payphone Providers (IPPs) result in a gross over-recovery of costs. Finally, I will comment on the market aspects of the tariff revisions and how well NYT's Public Telephone Services tariff, in general, fits with the Commission's pro-competition/pro-consumer policies.

TARIFF ANALYSIS

5. In its December 31, 1996 tariff filing, NYT established rates for the first time for the pay telephone services and features it uses in its own vertically integrated pay telephone operations. In constructing the rates for the bottleneck payphone services it was introducing, NYT utilized the existing Basic Public Access Line (BPAL) rates in its Public Telephone Services tariff as a surrogate for service costs and as a starting point for the new rates. By doing so, NYT chose to eschew the FCC required application of the New Services Test in its rating of the services it has used for years in its own payphone operations.[3] The rating scheme used by NYT produced monthly

[3] See Report and Order, at ¶146 which states, "We conclude that incumbent LECs must provide coin service so

rates with a range from $22.73 for INMATE and CHARGE-A-CALL to $23.72 and $24.85 for BCAL2 and BCAL1 respectively.[10] As I will show, the process NYT utilized to determine the level of rates for the services it included in its tariff filing is incorrect. Moreover, the tariff filing excluded from consideration entirely the rates for existing services used by IPANY and other independent payphone providers, and this is a direct violation of FCC requirements.

THE REQUIREMENTS OF THE TELECOMMUNICATIONS ACT OF 1996

6. In order to conform to the payphone service provisions of the Telecommunications Act of 1996, NYT must meet two broad conditions regarding its dealings with its payphone competitors. First, it must not prefer or discriminate in favor of its own payphone service.[11]

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competitive payphone providers can offer payphone services using either instrument-implemented 'smart payphones' or 'dumb' payphones that utilize central office coin services, or some combination of the two in a manner similar to the LECs. Because the incumbent LECs have used central office coin services in the past, but have not made these services available to independent payphone providers for use in their provision of payphone services, we require that incumbent LEC provision of coin transmission services on an unbundled basis be treated as a new service under the Commission's price cap rules. Because incumbent LECs may have an incentive to charge their competitors unreasonably high prices for these services, we conclude that the new services test is necessary to ensure that central office coin services are priced reasonably."

[10] Filing Overview, New York Telephone, Section 4.

[11] 47 U.S.C. §276(a)(2).

Second, it must adhere to non-structural safeguards which, "at a minimum, include the non-structural safeguards equal to those adopted in the Computer Inquiry-III (CC Docket No. 90-263)".[12]

7. The FCC determined that such safeguards mandate unbundled nondiscriminatory access to NYT network features and functionalities,[13] on the basis of terms and conditions equal to those provided to NYT's own operations.[14] It also required that NYT provide to payphone competitors access to other unbundled network elements that are not unique to payphone services, but are integral to competitors' service offerings to end-users.[15] The FCC further required that tariffs for all payphone lines and unbundled features and functions be filed with the states, and permitted states to require additional unbundling requested by competitors or as needs arise.[16] Finally, the FCC stated that non-discriminatory rates would be accomplished through the application of the "New Services Test" which determines prices by calculating the direct cost

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[12] See 47 U.S.C. §276(b)(1)(c).

[13] Report and Order, FCC 96-388, CC Docket No. 96-128, Released and Adopted September 20, 1996, at ¶196.

[14] Id., at ¶ 203.

[15] Id., at ¶ 148.

[16] Delegated Authority, DA 97-678, CC Docket No. 96-128, Order Adopted and Released April 4, 1997, at ¶ 8.

of providing a service.[17]

THE NEW SERVICES TEST

8. The "New Services Test" is an assessment used by the FCC to determine whether companies such as NYT, which operate under federal price cap rules, file rates for new Open Network Architecture (ONA) interstate access services that are based on cost. The test requires the filing company to determine the direct cost of providing a service, and to use that cost as a price floor. With the direct cost as a lower bound for pricing to avert subsidy situations, the overall rate for the service is then established by adding a reasonable amount of overhead.[18] The "New Services Test" therefore establishes a cost-based-rate requirement for the bottleneck service components of LEC services provided to competitors.

COST OF SERVICE SUPPORT

9. As stated earlier, NYT did not calculate actual direct costs, but instead used its existing rates as a surrogate for line costs in its tariff filing. This is

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[17] Report and Order, at ¶ 146. See also 47 C.F.R. Part 61 at 61.49(f) and (g).

[18] Delegated Authority, DA 98-2110, Letter dated October 28, 1998, Kathryn C. Brown, Chief, Common Carrier Bureau, FCC, to Honorable Joseph P. Mettner, Chairman, Public Service Commission of Wisconsin, at Page 2. See also, ONA Order, 6 FCC Rcd at 4531, at ¶ 43.

shown in its memo in support of the filing, which I will refer to as the NYT Filing Overview. NYT also filed a Long Run Incremental Cost (LRIC) analysis under trade secret status, but that cost analysis was not made available for review. On June 10, 1997, NYT agreed to provide a copy of the LRIC to IPANY and also to an expert who was not objectionable to NYT.[19] However, when the LRIC was requested by IPANY in conjunction with this analysis, the request was refused.[20] The LRIC's usefulness in this analysis is questionable though, for as I will explain, the content of NYT's Filing Overview indicates that the LRIC was likely incomplete, its calculations likely violated FCC cost and price guidelines, and it appears to have been based on data that became obsolete on the effective date of the tariff.[21]

10. With these and other deficiencies I have

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[19] Letter of Robert P. Slevin, Counsel, NYNEX, to Steven Blow, Records Access Officer, Department of Public Service, dated June 10, 1997.

[20] It was explained that the request was rejected because New York Telephone's prior approval was two years old and that the coin proceeding was closed. NYT stated that in order for the LRIC to be released, the formal request process through the DPS Records Access Officer must begin again, including a new showing of need for the LRIC by IPANY.

[21] The April 1, 1997 effective date of the tariff is also the date the Commission issued its Opinion and Order Setting Rates for First Group of Network Elements. It is the costs established in that proceeding which should be used to set wholesale payphone rates.

found, NYT's cost support for its tariff filing fails all of the payphone pricing conditions of The Telecommunications Act as defined by the FCC. As indicated, the company did not calculate the direct cost of the new payphone lines it has introduced, as required by the FCC's "New Services Test." The company used instead existing Public Access Line rates as the basis of its computations.[22] In addition, NYT did not even consider calculating direct costs for the existing Public Telephone Services used by its payphone competitors, a direct contravention of FCC directives.

11. In 1997, NYT claimed to the FCC that it did not understand that the "New Services Test" requirement also applied to existing payphone services.[23] Apparently to assuage FCC concerns, NYT then committed "to reimburse and provide credit to those purchasing the services back to April 15, 1997," if rates for services under the "New Services Test" prove to be lower than those now in existence.[24]

12. However, despite the FCC directives, and NYT's commitment to the FCC, NYT has not, in more than two years, notified the Department of Public Service of its

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[22] Filing Overview, Section 3.

[23] Ex Parte Letter of Michael Kellogg, Counsel, RBOC Coalition to Mary Beth Richards, Deputy Chief, Common Carrier Bureau, FCC, Dated April 11, 1997, at Page 1.

[24] Id., at Page 3.

commitment; nor has it attempted to modify its tariff filing in New York to include the requisite "New Services Test." Even though the FCC in August 1999 eliminated the "New Services Test" requirement for many of the new services introduced by companies such as NYT, the test is still required for loop-based services such as those utilized by NYT's payphone competitors.[25]

13. Another critical failure by NYT in its filings with this Commission has been its decision not to submit cost calculations for the usage it provides to its own payphone operations and to its competitors. Again, contrary to FCC unbundling requirements, NYT continues to charge its competitors retail message unit rates for local traffic, and retail interregional rates for intra-LATA traffic in the NY Metropolitan area, instead of cost-based rates.[26]

14. The end result of the deficiencies in NYT's cost support is that rates charged to IPANY members are far

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[25] Fifth Report and Order and Further Notice of Proposed Rulemaking, FCC 99-206, CC Docket No. 96-262, Adopted August 5, 1999 and Released August 27, 1999, at ¶39. "Loop-based" services are defined in accordance with 47 C.F.R. §36.154 as those utilizing "[s]ubscriber or common lines that are jointly used for local exchange service and exchange access for state and interstate interexchange services."

[26] Significantly, there is reference to NYT's use of local switching costs, rather than message unit rates, in determining its profitability in the proprietary LRIC cost study. See Order Approving Tariff On A Temporary Basis, at Page 4.

in excess of what was authorized by the FCC. Furthermore, NYT incurs costs to its core operations, and not retail rates, when providing services to its own payphone operations. To then construct its prices to its competitors on the basis of incurring <u>rates</u> rather than <u>costs</u> is clearly discriminating against competitors in favor of its own payphone operations.

<u>IMPUTATIONS</u>

15. As a way of indicating to this Commission that its proposed rates were acceptable, and that all subsidies to its payphone operations would end, NYT performed imputations which concluded that its cost per completed call was below the average revenue the company received per completed call.[27] The first imputation used a combined link and port <u>rate</u>, again as a substitute for cost, of $25.39 per month, which was obtained from then existing interconnection agreement arbitration awards.[28] A second imputation analysis was performed, using a weighted tariff-proposed line <u>rate</u> of $24.29, plus an average local message unit rate of $0.09 per completed call, instead of local switching cost.[29] These imputations claimed to show that in

[27] Case 96-C-1174, Order Approving Tariff On A Temporary Basis, March 31, 1997, at Page 3.

[28] Id.

addition to eliminating payphone subsidies,[30] the rates that NYT was proposing were fair, reasonable and did not discriminate against payphone competitors to the advantage of its own payphone operations.

16. However, contrary to NYT's assertions, NYT's rates for underlying payphone services are unreasonably high when compared to cost.[31] In addition, one of the results of the imputations is NYT's self-serving claim that NYT's payphone competitors are not "squeezed" by NYT's rates because NYT payphones are still profitable when rates are used as a surrogate for costs. Following NYT's logic, based on the outdated, pre-Universal Service Fund practice of contributory pricing for the bottleneck components of competitive services, prices to NYT's competitors could be raised to $100 per line above cost, and as long as total

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[29] Id. Page 4.

[30] In 1984, most local exchange company payphones, including those of New York Telephone, performed their routine functions, such as coin collection or coin return, through signals sent from their serving central office switches. As a result, these "dumb" payphones were viewed by the FCC as an extension of the local telephone network in its Computer Inquiry II decision. This treatment as part of the local network resulted in NYT's payphone equipment and payphone line costs being recovered through various subsidies, including through access charges paid by consumers and inter-exchange carriers.

[31] See Filing Overview, Section 3. There, NYT puts its pricing practices on display. Coin service features with a cost of $1.91 and $0.00 are priced at $6.00 and $2.00 respectively.

revenues produce any level of profit, competitors will not, according to NYT, be "squeezed", and consumers will be better off. This is far from the reality of the marketplace where NYT's rates already far exceed costs. As a result, NYT's payphone competitors, and New York's lower income consumers, are caught between NYT's excessive rates for bottleneck payphone services and competition from wireless services.

ESTABLISHING DIRECT COST

17. There is no need to speculate about NYT's cost of providing payphone line services. The Commission's Opinion 97-2 and NYT's Network Elements tariff reveals that information.[32] The cost-based rate of a Public Access Line coin port is $2.50 per month, the same rate as a standard Analog Line Port element.[33] Links, which would connect payphone sets to these ports, have no attributes different from standard links and are $14.57 per month as a statewide

[32] The use of cost data from Opinion 97-2 should not be interpreted as a request by IPANY members for treatment as "carriers" under Section 251 of the Telecommunications Act. Rather, the cost data from Opinion 97-2 is used as a surrogate for the direct cost data not filed by New York Telephone.

[33] See P.S.C. No. 916 - Telephone, New York Telephone, Section 5, 4th Revised Page 69, at 5.6.1.7 (A).

average,[34] $12.49 for Major Cities,[35] $19.24 for the Rest of State,[36] and most recently $11.83 for Manhattan.[37] These rates are based on Total Element Long Run Incremental Cost (TELRIC).[38] *Since the FCC specified that payphone service* rates be calculated on the basis of direct cost plus a reasonable amount of overhead, those criteria are met by TELRIC rates, which provide a close approximation of direct cost based rates for the following reasons:

(a) TELRIC based costs are essentially direct costs because they contain little allocation of joint or common costs.[39]

(b) TELRIC based costs are long run, where nearly

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[34] Opinion and Order Setting Rates for First Group of Network Elements, Opinion No. 97-2, Case 95-C-0657, Issued and Effective April 1, 1997, at Attachment C, Schedule 1, Page 1 of 3. This statewide NYT cost was not used by the Commission in its pricing of link elements.

[35] See P.S.C. No. 916 - Telephone.

[36] Id.

[37] Order Allowing Deaveraging Tariff Filing To Take Effect, Case 98-C- 1357, Issued and Effective May 28, 1999.

[38] PAL lines offer certain blocking and screening features, including Outward Call Screening, International Call Blocking, and Billed Number Screening not normally associated with business lines. However, the cost of these services is negligible. For example, NYT itself acknowledges the cost of Billed Number Screening is zero. <u>See</u> Letter of July 22, 1997, to Hon. John C. Crary from Robert Slevin, Counsel to NYT.

[39] Id., at Page 11.

all costs are variable and directly attributable.

(c) TELRIC based costs contain all the components of direct cost calculations, including components for return on invested capital and asset depreciation.[40]

(d) TELRIC based costs include an allocation of overhead expenses in its Directly Attributable Joint Costs factor, which meets the "New Services Test" pricing requirement.[41]

COST AND RATE COMPARISONS

18. To illustrate the position that the rates NYT charges to IPANY members are not reasonable, I have prepared a comparison of rates charged by NYT to its various competitors and retail business customers. As shown in the tables below, the rates NYT charges to IPANY for payphone lines and usage differ widely from NYT's TELRIC cost based rates, and from the rates NYT charges to other local exchange competitors and retail business customers:

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[40] Id., at Pages 38-48.

[41] Id., at Page 88.

Table A
Line Rates

Cost Component	CLEC[42] Elements	Reseller[43] Single Line	Reseller Multi-Line	Retail Single Line	Retail Multi-Line	IPANY[44] Payphone
Link	$12.49	$13.32	$13.32	$16.46	$16.46	$19.80
Port	2.50	0.00	0.00	0.00	0.00	0.00
FCC EUCL	0.00	2.83	6.58	3.50	8.14	8.14
FCC PICC[45]	0.00	0.84	3.49	1.04	4.31	4.31
Total	$14.99	$16.99	$23.39	$21.00	$28.91	$32.25

19. It is critical to note that, for payphone PAL lines, in addition to receiving the LIDPAL rate of $19.80, which already exceeds the $14.99 direct cost of the link and port (with reasonable overheads), NYT also receives an FCC

[42] See Opinion 97-2, Attachment C. The link rate shown here is the major city rate, where the overwhelming majority of public pay telephones are installed.

[43] See Opinion and Order Determining Wholesale Discount, Opinion 96-30, Case 95-C-0657, Issued and Effective November 27, 1996, at Page 79. The wholesale discount for NYT services is 19.1% where NYT provides operator services and 21.7% where operator services are provided by the reseller. The rates shown here are at the more conservative 19.1% discount, where resellers provide no facilities at all.

[44] This rate is for the payphone line most used by IPANY members. It is referred to in NYT's tariff as an Enhanced LIDPAL with Outgoing Call Screening. It includes blocking, limited inter-LATA dialing and outgoing call screening. See PSC No. 916 - Telephone. All of these features are supported by the PAL port element. See also Tariff FCC No. 1, The NYNEX Telephone Companies, 8th Revised Page 31.125, at 31.13.12 where the Operator Number Screening rate is zero.

[45] The FCC's PICC (Primary Interexchange Carrier Charge) is imposed by NYT on the IXC to which a payphone is presubscribed. If there is no presubscribed IXC, the PICC is billable directly to the payphone operator. Either way, the PICC represents a source of income to NYT to cover a portion of the NTS cost of the PAL line.

EUCL ($8.14) <u>and</u> an FCC PICC ($4.31). This results in a recovery by NYT of at least $17.26 above the total, unseparated direct cost (plus overheads) of the PAL Line.[46]

20. Beyond the comparison to TELRIC rates, it is not logical that the PAL rates paid by IPANY members are $3.34 to $11.25 per month higher than those paid by businesses for retail service, especially since business access line service has historically been priced to recover full costs and provide a contribution.[47] Even pure resellers which utilize no facilities of their own have the benefit of rates $8.86 to $15.26 per month lower than those paid by IPANY members.[48]

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[46] More than two years ago the FCC noted that the Telecommunications Act required competitors to pay full cost-based rates for network elements, and that permitting LECs to charge EUCLs in addition to the reasonable cost of facilities would constitute a double recovery. Thus, purchasers of unbundled links - which already pay the unseparated, total cost of the link in the link rate - are <u>not</u> required to pay FCC EUCL charges or PICCs.

There are additional revenue sources collected by NYT designed to cover NTS costs of the loop, including USF payments (if any) received by a LEC and per-minute CCL components of access charges. When toll calls are made from a payphone, the IXC pays originating access charges to NYT, which may include a CCL component. These should be recognized as further offsets to (or appropriate reductions from) the unseparated total loop cost as captured by TELRIC rates. However, because of the complexity of measuring this additional revenue source, I have omitted it from this analysis.

[47] See Opinion and Order Determining Wholesale Discount, at Pages 74 and 75. Also, the pricing of business services to recover full costs dates to P.S.C. Case 26426, Case 26775 and Case 27469, conducted in the 1970s.

[48] As with carrier resellers, NYT avoids marketing and other costs when it provides wholesale, underlying services to pay

21. The other serious deficiency in NYT's pricing is with respect to usage rates. As shown in Table B, the local usage retail rates charged to IPANY members for the average call are 23% higher than those charged to resellers, and more than a 400% markup over local usage costs.[49]

Table B
Usage Rates

Usage 1st 3 Minutes	CLEC Elements	Reseller Single Line	Reseller Multi-Line	Retail Single Line	Retail Multi-Line	IPANY Payphone
Day	$0.014	$0.066	$0.066	$0.081	$0.081	$0.081
Evening	$0.006	$0.066	$0.066	$0.081	$0.081	$0.081
Night	$0.005	$0.066	$0.066	$0.081	$0.081	$0.081
Day Call Avg.	$0.018	$0.074	$0.074	$0.091	$0.091	$0.091

22. Regarding Table B, there can be absolutely no reason for IPANY to pay rates higher than those paid by resellers, which provide no network facilities whatsoever.

23. NYT is likely to argue that IPANY members are not eligible for rates identical to those provided to CLECs because IPANY members are not facilities based carriers, and therefore are not entitled to TELRIC rates for Unbundled Network Elements under §251 and §252 of the Telecom Act. But the proposed use of TELRIC rates is not based on §251 and §252. Rather, it flows from the FCC's requirement to

telephone providers, which also provide service through resale.

[49] Opinion 97-2, Attachment D.